IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE NINTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

WRIT PETITION NO : 10519 of 2004

Between:

M/s. SRI BALAJI STONE CRUSHER, Rep. by its Proprietor Sri P. Sridhar, S/o. Sri Ramesh Babu, aged 36 Years, R/o. UD/LD 166, A Colony, VTPS Ibrahimpatnam, Krishna District.

..... PETITIONER

AND

1 The Government of Andhra Pradesh, Rep. by its Secretary, Department of Mines and Geology, Secretariat Buildings, Hyderabad.
2 The Assistant Director of Mines and Geology, Vijayawada, Krishna District.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate Writ, order or direction more particularly in the nature of Writ of Mandamus declaring the letter bearing No. 3285/vg/97 dt. 30-12-2003 issued by the 2nd respondent herein as arbitrary, illegal, capricious and violate of principles of natural justice and fair play and consequently direct the respondents herein to pass orders, if any, only after furnishing the documents as required in representation dt. 28-1-2004, as per the orders of this Hon'ble Court, of the petitioner herein

Counsel for the Petitioner:MR.SAI GANGADHAR CHAMARTY

Counsel for the Respondents: GP FOR MINES AND GEOLOGY

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ORDER:

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Heard both sides and at their request the main Writ Petition is taken up for disposal.

The case of the petitioner in this Writ Petition, which has been filed seeking Mandamus declaring the impugned proceedings dated 30.12.2003 is that even though earlier this court in Writ Petition No. 1146 of 2004 dated 22.1.2004 directed for disposal after giving notice to the petitioner, however, without giving proper opportunity and notice as such, the respondents have passed the impugned order.

According to the respondents though notice was served on 6.4.2004, the same could not be served on the petitioner, as the petitioner was absent continuously for several days, therefore, the impugned orders came to be passed.

Having regard to the submissions and also after perusal of the entire material on record, it seems that the petitioner was not served with notice and he did not appear in the enquiry conducted subsequent to the orders passed by this court. In the circumstances, it is felt desirable that the matter should be re-considered afresh.

Accordingly, the Writ Petition is allowed and the second respondent is directed to give proper opportunity and notice to the petitioner. To avoid any such further delays and also any attempts to avoid service of notice, it is directed that the second respondent shall fix hearing on 6.12.2004 at 10.30 AM. On that day the petitioner shall present in the office of the second respondent and thereupon enquiry shall be proceeded with. On considering the submissions made, fresh orders be passed in accordance with law on merits. No costs.

09.11.2004

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That Rule Nisi has been made absolute as above.

Witness the Hon’ble Sri Devinder Gupta, the Chief Justice on this

Tuesday the Ninth Day of November Tow Thousand and Four.

REGISTRAR

To

1 The Government of Andhra Pradesh, Rep. by its Secretary,
Department of Mines and Geology, Secretariat Buildings, Hyderabad.
2 The Assistant Director of Mines and Geology, Vijayawada, Krishna District.

3. 2 CCs to G.P. for Mines and Geology, High Court Buildings, High Court of A.P., Hyderabad (OUT)

4. 2 CD copies